

**DEPARTMENT OF STATE REVENUE
REVENUE RULING ST 97-04**

June 3, 1997

NOTICE: Under IC 422-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax - Purchase of Equipment

Authority: IC 6-2.5-5-25, 45 IAC 2.2-5-55, Sales Tax Information Bulletin #10

The taxpayer requests the Department to rule on the application of sales/use tax to the purchase of equipment.

STATEMENT OF FACTS

The taxpayer is a golf club incorporated in the State of Indiana as a "not-for-profit" corporation. The taxpayer is in the process of replacing equipment and evaluating various financing alternatives. The question of the taxpayer's liability to pay sales tax on equipment purchases such as mowing equipment, tractors and aeration equipment has been raised. In the past, the taxpayer has always paid sales tax on equipment purchases. After reviewing the taxpayer's articles of incorporation and the Indiana Code's requirements for sales tax exemption, the taxpayer feels that it may have claim for sales tax relief under IC 6-2.5-5-25.

The taxpayer's articles of incorporation state the following purposes for which it is formed:

"To promote and encourage golf and outdoor sports, promote conservation and preserve wildlife, to foster good fellowship and opportunity of sociability and to do everything necessary, proper and advisable for the accomplishment of this purpose including but not limited to the following:

To acquire (by building, purchase, exchange, lease, hire, contract for, raise funds for or otherwise), hold, own, mortgage, pledge, hypothecate, exchange, sell, manage, operate, lease, deal in and dispose of either alone or in conjunction with others, real estate, and personal property of every kind, character and description whatsoever and wheresoever situated."

The taxpayer states that if the true operation of the golf club is evaluated and the articles of incorporation are reviewed, the organization is not truly "operated predominantly for social purposes." Instead, the golf club's membership pays annual dues to play golf.

The golf club has a pro shop that includes a locker room and bathrooms. The golf club has an alcoholic beverage license and also sells soft drinks and snacks. The club, however, does not have a restaurant, swimming pool, reception hall or tennis courts, and does not offer other "social-oriented" services. The main mission of the golf club is to provide golf to its members who pay an annual membership fee for golf privileges, not social oriented services. The golf club is not operated predominantly for social purposes, but instead is predominantly operated to provide membership with a golf facility and related services.

DISCUSSION

IC 6-2.5-5-25(a) states:

(a) Transactions involving tangible personal property or service are exempt from the state gross retail tax, if the person acquiring the property or service:

- (1) is an organization which is granted a gross income tax exemption under IC 6-2.1-3-20, IC 6-2.1-3-21, or IC 6-2.1-3-22;
- (2) primarily uses the property or service to carry on or to raise money to carry on the not-for-profit purpose for which it receives the gross income tax exemption; and
- (3) is not an organization operated predominantly for social purposes.

Rule 45 IAC 2.2-5-55(e) provides:

(e) Predominantly social not-for-profit organizations. A social organization will be deemed to exist for predominantly social purposes if more than fifty (50%) percent of its expenditures are for, or related to, social activities. Social activities include food and beverage services, furnishing of sleeping rooms, club rooms, lounges, recreational activities and any other social activities.

Sales Tax Information Bulletin #10, interpreting both IC 6-2.5-5-25(a) and Rule 45 IAC 2.2-5-55(e), states, "Purchases of tangible personal property to be used by organizations organized and operated predominately for social purposes are not exempt. If over fifty percent (50%) of its expenditures are for or related to social activities such as food and beverage services, golf courses, swimming pools, dances, parties, and other similar social activities, the organization will be considered to be predominantly organized and operated for social purposes."

Here, the taxpayer is an organization that is defined as one operated predominantly for social purposes, therefore,

does not satisfy the exemption provisions of IC 6-2.5-5-25 resulting in the purchase of equipment by the taxpayer being subject to sales/use tax.

RULING

The Department rules that the taxpayer does not fall within the ambit of the exemption provisions of IC 6-2.5-5-25, hence, the taxpayer's purchase of equipment is subject to sales/use tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.